

**REMARKS**

Claims 17 and 19-36 are pending in this application. This Amendment amends claims 24 and 27.

Applicants gratefully acknowledge Examiner Alexander's indication that claims 21, 22 and 35 are allowed and that claims 19, 20, 28 and 30 would be allowable if rewritten in independent form. Applicants respectfully submit that claim 31 should also be allowable since it depends from claim 30.

**The Claimed Invention**

A exemplary embodiment of the invention, as recited by independent claim 17, is directed to a brewing chamber including a top part having an outer seal.

Another exemplary embodiment of the invention, as recited by independent claim 32, is directed to a coffee machine with a brewing chamber including a top part having an outer seal.

**The Fiori Reference**

Claims 17, 29, 31 and 32 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 3,030,874 to Fiori. Applicants respectfully traverse the rejection.

Independent Claim 17 recites a top part having an outer seal. Applicants respectfully submitted that the Office Action-defined top part of Fiori (diaphragm 30) does not have an outer seal. The Office Action-defined seal of Fiori (spring 32) is a spring, not a seal. It is further submitted that marginal edges 52 of Fiori are not part of the diaphragm and, therefore, cannot correspond to the claimed outer seal.

Claim 29 depends from claim 17.

Claim 31 depends from claim 30, which has been indicated as containing allowable subject matter. As a result, Applicants respectfully submit that claim 31 contains allowable subject matter and should not be rejected.

Independent claim 32 recites a coffee machine including a brewing chamber including a top part having an outer seal. Applicants respectfully submitted that the Office Action-defined top part of Fiori (diaphragm 30) does not have an outer seal. The Office Action-defined seal of Fiori (spring 32) is a spring, not a seal. It is further submitted that marginal edges 52 of Fiori are not part of the diaphragm and, therefore, cannot correspond to the claimed outer seal.

In view of the forgoing, Applicants respectfully submit that Fiori does not disclose each and every feature of claims 17, 29, 31 and 32 and therefore rejection under 35 USC §102(b) is inappropriate. Applicants respectfully request withdrawal of this rejection.

**The Fiori Reference in view of the Endo Reference**

Claims 23-27 were rejected under 35 USC §103(a) as being unpatentable over Fiori in view of U.S. Patent No. 3,561,349 to Endo. Applicants respectfully traverse the rejection.

As explained above, Fiori does not teach or suggest the feature of a top part having an outer seal, as recited by independent claim 17, from which claims 23-27 depend.

Endo does not remedy the deficiencies of Fiori.

Indeed, the Office Action does not allege that Endo teaches or suggests the feature of a top part having an outer seal as recited by independent claim 17.

In addition, claim 24 recites that the elevated structure includes circularly arranged ribs provided with gaps in the ribs. There is no indication that ribs 22 of Endo have gaps in them. Further, Applicants submit that the purpose of ribs 22 of Endo would

be frustrated by gaps in the ribs. The purpose of ribs 22 of Endo is to improve the seal with the coffee package (col. 2, lines 60-63). Gaps in ribs 22 would inhibit such a seal.

Claims 25-27 depend from claim 24.

In view of the foregoing, Applicants respectfully submit that the combination of Fiori and Endo does not suggest the features of claims 23-27 and therefore rejection under 35 USC §103(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

**The Fiori Reference in view of the Bambi Reference**

Claims 33 and 34 were rejected under 35 USC §103(a) as being unpatentable over Fiori in view of U.S. Patent No. 5,598,764 to Bambi. Applicants respectfully traverse the rejection.

As explained above, Fiori does not teach or suggest the feature of a top part having an outer seal, as recited by independent claim 32, from which claims 33 and 34 depend.

Bambi does not remedy the deficiencies of Fiori.

Indeed, the Office Action does not allege that Bambi teaches or suggests the feature of a top part having an outer seal as recited by independent claim 32.

In addition, Bambi does not disclose a push-off element bulging downwardly from the top part and providing a downwardly biasing force against the coffee pad. Element 9F of Bambi is a screw and element 9H is a perforated metal disk, neither of which is described as providing a downwardly biasing force.

Further, adding screw 9F of Bambi to diaphragm 30 of Fiori would block many of the discharge openings 76 in diaphragm 30. This would frustrate the main purpose of the device of Fiori, which is to subject a bag 72 to a fluid. As a result, Applicants respectfully submit that it would not have been obvious to add screw 9F of Bambi to diaphragm 30 of Fiori.

Further still, in claim 33, the outer seal extends around an outer perimeter of the top part. Fiori does not disclose an outer seal that extends around an outer perimeter of diaphragm 30.

Claim 34 includes the feature of the push-off element being substantially hemispherical in a stress-relieved state. Applicants respectfully submit that screw 9F of Bambi is not substantially hemispherical.

In view of the foregoing, Applicants respectfully submit that the combination of Fiori and Bambi does not suggest the features of claims 33 and 34 and therefore rejection under 35 USC §103(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

### **CONCLUSION**

In view of the above, Applicants respectfully request entry of the present Amendment and allowance of claims 17 and 19-36. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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